

LEVIN & ASSOCIATES, PLLC

44 COURT STREET, SUITE 905

BROOKLYN, NEW YORK 11201

LEVINPLLC.COM

DUNCAN P. LEVIN, ESQ.

DLEVIN@LEVINPLLC.COM

(212) 330-7626

June 7, 2023

VIA ECF

U.S. District Judge John Cronan
U.S. District Court, Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *ABC v DEF*, Case No. 22-MC-174 (JPC)

Dear Judge Cronan:

This Firm represents the Plaintiff in this action. Because of public reporting in the past several weeks, as set forth below, we write at this time to withdraw our partial objection to the unsealing motion put forth by intervenor Eugene Volokh, a professor who is studying court openness. To be clear, Plaintiff's previous objection was solely with respect to the web address of a website, not to the unsealing of anything else in the record, to which we consented. This should obviate the need for oral arguments on Professor Volokh's motion, currently scheduled for July 13, 2023, as Plaintiff is withdrawing his objection at this time.

For background, on June 28, 2022, Plaintiff commenced the instant miscellaneous proceeding. He filed an *ex parte* motion for leave to commence an action in this Court but with his proposed complaint filed under seal and a redacted copy of the complaint appearing in the publicly accessible record (the "Miscellaneous Case"). The sole redaction Plaintiff sought was of the address of a website that he alleged contained information that was improperly damaging to him, that contained both false and defamatory material as well as illegally recorded and disclosed audio. Earlier this year, on February 15, 2023, Florida State Court Judge Reemberto Diaz found that the website contained illegally recorded information, in violation of the Florida Security of Communications Act, Section 934.03 of the Florida Statutes, and issued a restraining order which led the web host to remove the website. The website is no longer publicly available.

Since filing our very limited objection to Professor Volokh's motion, in the past several weeks, at least two news reports have publicly identified the website and referenced the litigation in this Court and the Florida Court. As the web address information is now already now in the public domain, and as the website has been restrained by the Court in Florida, there is no ongoing compelling need to Plaintiff for the website address to remain under seal. As such, we respectfully withdraw our objection to its unsealing.

Hon. John Cronan
U.S. District Court, Southern District of New York
June 7, 2023
Page 2

We very much appreciate the Court's consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Duncan P. Levin".

Duncan P. Levin, Esq.
(212) 330-7626